

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55100 of 2023

Arising Out of PS. Case No.-1258 Year-2018 Thana- BUXAR COMPLAINT CASE District-
Buxar

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Mukesh Singh @ Mukesh Kumar Singh S/O Vishwa Mohan Singh R/O
Village- Sangam Tola, Jagdishpur, P.O And P.S- Jagdishpur, Distt.- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arti Kumari W/O Mukesh Singh R/O Village- Sangam Tola, Jagdishpur, P.O
And P.S- Jagdishpur, Distt.- Bhojpur Presently Address, D/O Sri Bhagwan
Singh, R/O Village- Diwan Ke Barakagaon, P.O- Diwan Ke Barakagaon,
P.S- Sikraul, Distt.- Buxar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandra Mohan Singh, Adv.

For the Opposite Party/s : Ms. Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 13-09-2023 Heard Mr. Chandra Mohan Singh, learned counsel

appearing on behalf of the petitioner and Ms. Sharda Kumari,

learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Complaint Case No. 1258(C) of 2018, registered for the
offences punishable under Section 498(A) of the Indian Penal
Code and Sections 3/4 of the Dowry Prohibition Act.

3. Allegedly the marriage of the petitioner was
solemnized with the complainant in the year 2011, however,
after the marriage she remained happily for few years and
thereafter she was subjected to demand of dowry and on account
of non-fulfillment of the same she was tortured in various ways
and finally ousted from the matrimonial house.

4. Learned counsel appearing on behalf of the



petitioner submits that from the narrations made in the complaint it is evident that both the petitioner and his wife remained happily for about four years after the marriage and, as such, the demand of dowry after seven years of marriage appears to be doubtful, that too, in a fact where the husband of the complainant, on account of being deserted by his wife, filed Matrimonial Case bearing No. 162 of 2014 under Section 9 of the Hindu Marriage Act for restitution of conjugal right before the Principal Judge, Family Court, Bhojpur at Ara which ultimately resulted into decree of restitution of conjugal right in favour of the petitioner. He next submitted that despite the decree having been granted by the Family Court the complainant did not come to the house of the petitioner and thus having found no option, the petitioner filed Divorce Case bearing Matrimonial (Divorce) Case No. 313 of 2017 and that has also been resulted into *ex parte* decree of divorce in favour of the petitioner, copy of which has been placed on record as annexure-3. He also submits that earlier the opposite party no. 2 has also filed Maintenance Case as well as the case under the Domestic Violence Act which also stood dismissed for non-prosecution.

5. On the other hand, learned counsel for the State



opposed the bail application.

6. Before coming to the final outcome, this Court is constrained to observe that in a facts like the present, the learned Sessions Court should have been exercised its jurisdiction under Section 438 Cr.P.C.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that prior to filing of the complaint case, the petitioner had filed a case for restitution of conjugal right and finally a Matrimonial (Divorce) Case, which resulted into decree of divorce in favour of the petitioner, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Buxar in connection with Complaint Case No. 1258(C) of 2018, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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